

134
A TRUE
ACCOUNT
OF THE
BEHAVIOUR
AND
CONDUCT
OF
ARCHIBALD STEWART, Esq;

L A T E

Lord Provost of Edinburgh. V2

In a LETTER to a Friend.

*Non potuit meamens, quin esset gratia teneri,
Sit, precor, officio non gravis ira pio.*



L O N D O N :

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ACCOUNT

OF THE

REVENUE

AND

CONDUCT

ARCHIBALD STEWART

1845



In a

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AS

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ARCHIBALD STEWART, Esq;
L A T E
Lord PROVOST of *Edinburgh*.

SIR,

YOU inform me that you had great Curiosity to be acquainted with all Provost Stewart's Story, and the Circumstances of his Conduct in *Edinburgh*, when that City was taken by the Rebels in 1745: And that having got Copies of the Informations for and against him, you had been frightened from the Perusal of them by the Sight of two such long Law Papers, which, you imagined, must be full of Citations and technical Terms, and abstract Reasonings, of which you are wholly ignorant. But allow me to tell you, your Delicacy is very ill founded. I shall say nothing of the Information against him; and I doubt not, but, as it was drawn by a Lawyer of known Capacity, it is as good as the Subject would admit

of. But the Information for him is really an extream good Paper, and worthy of your Perusal. And could you doubt of it, when you know the Importance of the Cause, the Expectations of the Publick, and above all, when you saw, at the Foot, the Gentleman's Name who composed it ? *

You desire me to give you an Abstract of the Story, in more familiar Terms, and in a Form, which would give you less Trouble to comprehend it. I must own, I would not indulge your Laziness so far, at the Expence of my own, were it not that I had great Obligations to Mr. Stewart, as well as a great personal Regard for him ; and am desirous of putting his Cause in a just Light to you, who had once been so far seduced by Calumny and vulgar Reports, as to have entertained some Doubts of his Innocence.

Your former Prejudices are not at all surprizing. Whatever general Contempt we may entertain for popular Rumours, 'tis difficult, when they come full upon us, not to lend, at first, some Attention to them ; and they fortify themselves with so many Stories, and such numerous Circumstances, that it becomes difficult, at last, not to give even some Credit to them. But here is Mr. Stewart's Advantage, which he has now happily attained, after suffering the greatest Hardships, and after the most tedious Delays : He is placed before a Court of Judicature. His Calumniators must cease their furious Obloquy and loose Accusations, and harken to the more sober Voice of his Prosecutors. These have reduced their Charge to Article and Proposition, which
they

* Mr. Ferguson of Pitfour.

they are engaged to prove and defend. He has had an Opportunity to answer ; and his Answer is so good, so solid, so convincing, that the good-natured Mob begin to retract their Calumnies ; and even the furious Zealots confess with Regret, that he has been so cunning and sagacious, as to screen himself from all legal Proof and Punishment : The utmost Confession, surely, you will ever expect from them.

As often as I heard this Subject handled in Conversation (and nothing else almost was talked of for some time) I desired only every zealous Declaimer to consider the Force of the Garrison which the Provost commanded, and the Strength of the Place he was to defend. These are surely very obvious Considerations, and yet few People ever entered into them, otherwise it were impossible for such ridiculous Calumnies to have made such strong and durable Impressions. Let us run over them a little, in order to set the Matter in a just Light. This may lead us into some general, as well as particular Topics, that may not be uninteresting or unentertaining.

The great Difference betwixt the State of this Island at present, and what it was a few Centuries ago, is obvious to every one. At that time, the whole Defence of both Kingdoms was trusted to the People ; who, tho' they received no Pay, yet never neglected the Use of Arms ; tho' dispersed in their own Houses, yet lived under a regular military Subordination to their Superiors and Chieftains ; and tho' obliged to labour for their Subsistence, considered, all of them, their civil Occupations as a Drudgery they submitted to from mere Necessity, but regarded their
military

military Atchievements as the only Source of Honour and Glory. What Actions of desperate Valour have been performed by such Troops, and what well-disputed Fields they have fought, is known to every one that has the least Acquaintance with the History of this or of any other Nation. And the Behaviour of the present Highlander, who preserves but a small Part of these ancient Institutions, may set the Matter still more strongly before us.

The Highlanders are altogether as ignorant of Discipline as the Low-Country Ploughmen, and know as little the Nature of Encampments, Marches, Ranks, Evolutions, Firing, and all the other Parts of military Exercise, which preserves Order in an Army, and renders it so formidable. They advance to Battle in a confused Heap, which some People have been pleased to call a Column: They can use no Weapon but the Broad-Sword, which gives not one Wound in ten that is mortal, and obliges each Combatant to occupy double the Ground that would suffice, did he employ the Pushing-Sword or the Bayonet. And they become weaker by their Victories; while they disperse to their Homes, in order to secure the Plunder they have acquired: But still, as long as they retain a devoted Obedience to their Chieftain, who is their Officer, and value themselves upon military Courage above all Endowments, they can never justly be regarded as a contemptible Enemy.

When Men have fallen into a more civilized Life, and have been allowed to addict themselves entirely to the Cultivation of Arts
and

and Manufactures, the Habit of their Mind, still more than that of their Body, soon renders them entirely unfit for the Use of Arms, and gives a different Direction to their Ambition. Every Man is then desirous to excel his Neighbour in Riches or Address, and laugh at the Imputation of Cowardice or Effeminacy. But the barbarous Highlander, living chiefly by Pasturage, has Leisure to cultivate the Ideas of military Honour; and hearing of nought else but the noble Exploits of his Tribe or Clan, and the renowned Heroes of his Lineage, he soon fancies that he himself is born a Hero as well as a Gentleman. The Songs recited at their Festivals, the Fables transmitted from their Ancestors, the continual Strain of their Conversation; all this nourishes their martial Spirit, and renders them, from their Cradle, compleat Soldiers in every thing but the Knowledge of Discipline.

In the antient Civil Wars of *Scotland*, we find that the Highland Families were always of little Weight on either Side, and that the Battles were decided entirely by the *Douglasses, Carrs, Humes*, and the other Low-Country Borderers; who, preserving the same Manners and Institutions with their Countrymen in the Mountains, had acquired a superior Address and Bravery, by their frequent Skirmishes and Battles with the *English*.

We also find, that when all the Highlanders joined to all the Lowlanders, much more numerous and brave than they, invaded *England*, under the legal Authority of their Prince or Sovereign, that Nation were so far from being alarmed at the Storm, that it scarce sufficed to rouse them from their
Indo-

Indolence and Repose. The Militia of the Northern Counties was commonly strong enough to repel the Invaders ; and the Inhabitants of *London*, when Battles were fought in *Northumberland*, or the Bishoprick of *Durham* (for our Ancestors seldom advanced farther) heard of these Combats with as great Security, as now they read of the Wars betwixt the *Persians* and the *Indians*. 'Twas only when an ambitious Prince, like *Edward* the First or Third, undertook the Conquest of *Scotland*, that the whole Force of *England* was mustered-up against us.

But now, (how can we think of it without Shame and Indignation ?) when not above a fifth Part of these miserable Highlanders (who are no braver than their Ancestors) rose in Rebellion, they trampled down the whole Low-Countries, who were generally averse to their Cause, and whose Ancestors could have dissipated twenty times the Force of such Barbarians : They advanced into the middle of *England*, without meeting any Resistance : They threw a prodigious Alarm into the Capital itself, the greatest City in the Universe ; they shook and rent the whole Fabrick of the Government, and the whole System of Credit on which it was built. And tho' there were three regular Armies in *England*, each of them much more numerous than they, they retreated back into their own Country ; and still maintained their Ground. Nor can any reasonable Man doubt, that if these Armies had been removed, eight Millions of People must have been subdued and reduced to Slavery by five Thousand, the bravest, but still the most worthless amongst them.

I shall

I shall never forget the Conversation on these Events, I had at that time with a *Swiss* Gentleman, that could not sufficiently admire how so great a People, who really are Lords of the Ocean, and who boast of holding in their Hand the Ballance of Power in *Europe*, could be so impotent and defenceless against so mean a Foe. *Let those Highlanders*, says he, *have invaded my Country, and the Militia of three Swiss Parishes would have repelled, what the whole Force of your three Kingdoms is scarce able to master.* And if we allow only a Battalion to a Parish (which seems reasonable in so populous a Country, and where every Man is disciplined) we shall find that this Boast contains no Exaggeration, but a serious, and, to us, a very melancholy Truth.

Since then, the Disposition and Discipline of this Age and Nation is such; what reasonable Man could be surprized to hear, that the Rebels had become Masters of *Edinburgh*, while it was not defended, but deserted by its timid Inhabitants. Methinks, we should at first have expected that Event as firmly as that they would enter *Kelso*, *Penrith*, or any defenceless open Village that lay upon their Road. I might add *London* to the Number, and suppose only, that the Rebels had advanced from *Derby*, and that Lord *Stair*, instead of encamping on *Finchley Common*, had led his Army down to *Exeter* or *Plymouth*. Would my Lord Mayor, who commands near a Million * of People, have ventured to give them the smallest Opposition; or, like a *Drawcan-sir*, have stood alone in their way, armed with

B. his

* Comprehending the City of *Westminster*, and Borough of *Southwark*, which are indeed more properly his Allies than Subjects.

his Macé and great Cap of Maintenance? For I take it for granted, that every Mortal, Citizen and Courtier, Laity and Clergy, Man and Woman, old and young, would have deserted him.

I wish his Majesty would be pleased to honour me with the Command of either of the *Highland* Battalions, and that I had some honest *Jesuitical* Clergyman to lay my Scruples; I should think it a very easy Exploit to march them from *Dover* to *Inverness*, rob the Bank of *England* in my Way, and carry my Spoils, without Interruption, thro' the whole Nation; provided the Army were disposed to continue mere Spectators of my Prowess.

To tell the Truth, one of the Persons whom I should be the most sorry to meet with on my Road, would be Mr. *Stewart*. For by all that I can learn of his Conduct, he acted the Part of so vigilant, active, and even brave a Magistrate (so far as he was tried) that he might create me some Trouble: But still, if his Force was no greater than what it was during the last Rebellion, he would not be able to give me any great Interruption.

Let us enumerate that Force, in order to judge the better of it, and determine whether it was likely to resist the Rebels. We shall surely find a List of Heroes equal to those of which *Homer* has given us a Catalogue, if not in his *Illiad*, at least in his *Batrachomyomachia*, or Battle of the Frogs and Mice.

There were of the Town Guards ninety six Men, augmented at that Time to 126. These are rather elderly Men, but pretty well disciplined; and indeed, the only real Force the Provost was Master of. The rest were, in a Word,

Word; undisciplined *Britons*, which implies just as formidable an Idea as undisciplined *Romans*, or undisciplined *Indians*. They were nominally divided into the Trained-Bands, the *Edinburgh* Regiment, and the Volunteers. But this Division was really what the Schoolmen call a Distinction without a Difference. For with Regard to military Prowess, they were much the same.

As to the Trained-Bands, * in what Condition that formidable Body may be in at present, or might have been in, at the time of the Rebellion, I cannot tell; but I remember, when I was a Boy, I had a very contemptible Idea of their Courage. For as they were usually drawn out on Birth Days, and marched up through the main Street, it was very common for any of them, that was bolder than usual, and would give himself Airs before his Wife or Mistress, to fire his Piece, in the Street, without any Authority or Command from his Officers. But I always observed, that they shut their Eyes, before they ventured on this military Exploit; and I, who had at that time been accustomed to fire at Rooks and Magpies, was very much diverted with their Timorousness †. However, I question not, but there are many very honest substantial Tradesmen amongst them, and as long as that is granted, I suppose they will allow any one to make as merry as he pleases with their military Character.

His

* These Trained-Bands are commonly about 1200 Men.

† 'Tis true, their Fear was better grounded than I believe they themselves imagined, for their Arms are commonly so bad, that a very moderate Charge of Powder would have made them burst about their Ears. These were the Arms which the Provost so feloniously allowed to fall into the Hands of the Rebels.

His Majesty's Warrant to raise the *Edinburgh* Regiment was not delivered to the Provost, till the 9th of *September*, seven Days before the Rebels entered the Town. The oldest enlisted, therefore, were now Veteran Troops of seven Days standing: the youngest not less than a Quarter of an Hour. Their Number might amount to about 300. I am told, that their Appearance resembled very much that of *Falstaff's* Tatterdemallion Company, which his Friend supposed he had levied by unloading the Gibbets and pressing the dead Bodies. But the merry Knight defended his Company, by saying, *Tut, mortal Men, mortal Men, good enough to toss, Food for Powder.* Tho' it is my humble Opinion, that had the Mortality of the Regiment abovementioned depended on their being Food for Powder, they would have deserved the Epithet of the *immortal Body*, as much as the King of *Persia's* Guards, who, as *Herodotus* tells us, were dignified with that Appellation. But not to be too hard upon our Countrymen, I shall allow, that notwithstanding their Poverty, they would have behaved as well as the Million Regiment of *London*, so called from the Property of the Soldiers, which, it seems, amounted to that Sum.

The Volunteers, who come next, to the Number of 400, and close the Rear, the Post of Honour in all Retreats, will, perhaps, expect to be treated with greater Gravity and Respect: And no doubt they deserve it, were it only for their well meant Endeavours in Defence of their King and Country. As to their Discipline and Experience, it was much the same with that of the others. I need not add their

their Courage: For these are Points almost inseparable. Religious Zeal makes a mighty Addition to Discipline; but is of no Moment when alone. *Cromwell's* Enthusiasts conquered all the Nobility and Gentry of *England*; and at the Battle of *Dunkirk* struck the *French* and *Spaniards* with Admiration, even under a *Turenne* and a *Condé*. But their Brethren at *Bothwell-Bridge* fled before they came within Sight of the Enemy. Which of these Examples our Volunteers were most likely to imitate, I leave to their own Conscience to determine. A Friend of mine, who has a poetical Genius, has made a Description of their March from the *Lawn-Market* to the *West-Port*, when they went out to meet the Rebels; and has invented a very magnificent Simile to illustrate it. He compares it to the Course of the *Rhine*, which rolling pompously it Waves through fertile Fields, instead of augmenting in its Course, is continually drawn off by a thousand Canals, and, at last, becomes a small Rivulet, which loses itself in the Sand before it reaches the Ocean.

Such were the Forces over whom the Provost had some Authority. His Auxiliaries were two Regiments of Dragoons, under Mr. *F—*, then a Brigadier General, now happily a Major General, in his Majesty's Service. Of what Importance these were to the Defence of the Town, shall be considered afterwards.

I remember *Cardinal de Retz* says, that a great Prince made very merry with the new levied Troops of *Paris*, during the Civil Wars; and when he mentioned the Defence that

might be expected from the City against the King's Troops, usually called it, *La guerre des pots de chambre*, The War of the Chamber-pots. As it is well known, that a Chamber-pot is a very formidable Machine in *Edinburgh*, I wonder it has not been comprized amongst Provost *Stewart's* Forces; at least, amongst his Auxiliaries, in Conjunction with the rest above-mentioned.

Having thus given a faithful Account of the Garrison, let us now bestow some Considerations on the Place, the Defence of which was expected from Mr. *Stewart*, and which he is supposed to have lost by Negligence or bad Intentions. A weak or no Garrison, in a Place weakly fortified, or not fortified at all, must be the Consummation of all Weakness. We are forbid by Philosophy to seek for more Causes than are requisite to explain any Phænomenon. And I think it will fairly be allowed, that if these two Circumstances are admitted, 'twill be quite superfluous to have recourse to a third, *viz.* a weak or a treacherous Governor, in order to account for the Surrender of the Place.

You know, that the City of *Edinburgh* is surrounded for the greatest part, by a plain Wall about twenty Foot high, where highest, and about two and a half or three Foot thick, where thickest. It is not, in many Places, flanked by any Bastions: It has not Strength or Thickness enough to bear Cannon. The Besieged would not even have room to handle or charge their Pieces; but must be set up aloft as Marks to the Enemy, who can annoy them infinitely more and receive less Harm from them, than if both stood in an open Field.

You

You know, that this Wall, tho' near two Miles in Length, surrounds not the whole Town, but is supplied on the North by a Lake which is fordable in many Places.

You know, that this Wall, for a very considerable Space, is overlooked by Houses, which stand within five or six Paces of it, and which it was impossible to destroy because of their Number and Value.

The Town is supplied with Water entirely by Pipes. Its Bread is even, strictly speaking, its daily Bread. For the Bakers never have by them more Flower than serves them a Day, but bring it continually from their Mills on the Water of *Leith*, as Occasion requires.

Besides, as happens in all Civil Wars, there were so many disaffected Persons in Town, that had it been held out but for three Hours (which indeed was impossible) it was justly feared, that it would have been set on fire from within, in order to facilitate the Entry of the Rebels; nay, it was easily possible for the Rebels themselves to set fire to it from without, and force it, by that means, to a speedy Surrender.

It is obvious to every one, however ignorant of military Affairs, that any Governor who incloses himself in such a Place, fights with Disadvantage, and has infinitely better Chance for Success, if he fairly opens his Gates, and marches forth to combat his Enemy in an equal Battle. For not to insist on the other Disadvantages above mentioned, the Circuit of these Walls is too large to be guarded by any moderate Garrison; the Enemy can draw them together to any one Place by a false Alarm, in the Night, or even in the Day; while he breaks in

at a distant Place, that is weakly defended, and the Garrison, entangled among the Houses and Garden-Walls, must be cut in Pieces, almost without Resistance.

This Measure therefore, of meeting the Rebels before they reached *Edinburgh*, was very prudently resolved on by General *Guest*, on the sixteenth of *September*, when Intelligence was brought, that the Highlanders were approaching; and he ordered Brigadier *F——* to advance with his Dragoons to the *Colt-Bridge* for that Purpose; he also desired Mr. *Stewart* to join what Infantry he could to sustain the Dragoons. The Provost ordered upon this Duty all the Town Guards, and all the *Edinburgh* Regiment that were fit for Service. He had no Power to order the Volunteers out of Town: He only consented, that, as many as pleased, should be allowed to march out. But, it seems, they had as little Inclination to go, as he had Power to order them; a few of them made a faint Effort; but, 'tis said, met with Opposition from some of the *zealously affected*, who represented to them the infinite Value of their Lives, in comparison of those Russians, the Highlanders. This Opposition they were never able to overcome.

Brigadier *F——* (whose Conduct in this whole Affair is too remarkable to be forgot *) tho' he

* Non ego te meis
Chartis inornatum Aleri,
Totve tuos patiar labores,
Impune, Lolli, carpere lividas
Obliviones: Est animus tibi
Rerumque prudens, &c. &c.

HORACE.

he had only two Regiments of Dragoons, and a very few Infantry, was still a formidable Enemy to the Rebels. For, as much as regular veteran Infantry are superior to Cavalry, as much are Cavalry, especially in an open Field, superior to an irregular Infantry, such as the Highlanders ; who cannot keep their Ranks, wherein consists all the Force of Foot ; who cannot fire regularly in Platoons ; who know not the Use of the Bayonet, and whose sole Weapon is their Broad-Sword, in which a Horseman, by his very Situation, has an infinite Advantage above them. Or if it were too sanguine to hope for a Victory from such a Force as the Brigadier commanded, a leisurely and a regular Retreat might at least have been made, tho' he had advanced within a Musket-shot of the Enemy.

But before the Rebels came within Sight of the King's Forces, before they came within three Miles distance of them, Orders were issued to the Dragoons to wheel ; which they immediately did, with the greatest Order and Regularity imaginable. As 'tis known, nothing is more beautiful than the Evolutions and Motions of Cavalry, the Spectators stood in Expectation what fine warlike *Manœuvre* this might terminate in ; when new Orders were immediately issued to retreat. They immediately retreated, and began to march in the usual Pace of Cavalry. Orders were repeated, every Furlong, to quicken their Pace ; and both Precept and Example concurring, they quickened it so well, that before they reached *Edinburgh*, they had come to a pretty smart Gallop. They passed, in an inexpressible Hurry and Confusion, through the narrow Lanes at *Barefoot's Parks*, in the Sight
of

of all the North Part of the Town, to the infinite Joy of the Disaffected, and equal Grief and Consternation of all the other Inhabitants. They rushed like a Torrent down to *Leith*; where they endeavoured to draw Breath: But some unlucky Boy (I suppose, a *Jacobite* in his Heart) calling to them that the Highlanders were approaching, they immediately took to their Heels again, and galloped to *Prestonpans* about six Miles further. Here in a literal Sense, *Timor addidit alas*, their Fear added Wings; I mean to the Rebels. For otherwise, they could not possibly imagine, that these formidable Enemies could be within several Miles of them. But at *Prestonpans*, the same Alarm was renewed, *The Philistines be upon thee Sampson*, they galloped to *Northberwick*; and being now about twenty Miles on the other Side of *Edinburgh*, they thought they might safely dismount from their Horses, and look out for Victuals. Accordingly, like the antient *Grecian* Heroes, each of them began to kill and dress his Provisions. *Egit amor dapis atque pugnae*, they were actuated by the Desire of Supper and a Battle. The Sheep and Turkies of *Northberwick* paid for this warlike Disposition. But behold! the Uncertainty of human Happiness; when the Mutton was just ready to be put upon Table, they heard, or thought they heard, the same Cry of the Highlanders. Their Fear proved stronger than their Hunger; they again got on Horseback, but were informed time enough of the Falseness of the Alarm, to prevent the spoiling of their Meal.

By such Rudiments as these, the Dragoons were

were trained ; till at last they became so perfect in their Lesson, that at the Battle of *Preston*, they could practise it of themselves ; tho' even there the same good Example was not wanting.

I have seen an *Italian Opera* called *Cæsare in Egitto*, or *Cæsar in Egypt* ; where in the first Scene *Cæsar* is introduced in a great Hurry, giving Orders to his Soldiers, *Fugge, fugge : a' llo scampo*. Fly, fly : to your Heels. This is a Proof, that the Commander at the *Colt-Bridge* is not the first Hero that gave such Orders to his Troops.

'Twas in Consideration of such great Example, I suppose, that he has been so honourably acquitted *, and since promoted ; while Mr. *Stewart* has been imprisoned for fourteen Months, forced to give a Recognizance of 15000 *l.* for his Appearance, and three times, in a manner, brought upon his Trial. So true the old Proverb, *That it is safer for one Man to steal a Horse, than for another to look over a Hedge*.

But Mr. *Stewart* asserts, very justly, that he neither stole the Horse, nor looked over the Hedge. He neither incurred any real Guilt, nor gave the smallest Foundation for any such Suspicion ; the only adviseable Expedient for saving the Town was tried ; and failing, with such multiplied Circumstances of Terror and Consternation, it left him, if possible, in a worse Situation than before, by that Discouragement, with which it imprest every one. The Volunteers, before that time, had thought fit of themselves to give up their Arms

* Upon his Trial, he justified himself at Mr. *Stewart's* Expence, and threw much Blame upon the Provost.

Arms to the Castle; the *Edinburgh* Regiment had also given up their Arms: The Burghers or Trained-Bands, deserted by the regular Forces, refused to expose their Lives, when they understood, by repeated Threatnings from the Rebels, that every Man, who made any Resistance, should be put to Death. In short an universal Panic, and that not groundless, had seized the People. 'Tis what the bravest and best disciplined Forces have been subject to, and what is, with great Difficulty cured, by the most expert Commanders. But 'tis unavoidable in every undisciplined Multitude, and is there perfectly incurable.

What tho' some faint Glimpse of Hope was afforded, by the Intelligence received, towards the Evening of this fatal Day, that Sir J—C— with his Army had been seen at Sea, off *Dunbar*. This Succour was too distant to relieve them from an Enemy, who was at their Gates. And the Minds of Men were now unbent, and had, with great Reason, abandoned all Thoughts of Defence, which they could not resume again, in such immediate Danger, and without any probable or possible View of Success.

In this Confusion, when nobody did his Duty, when nobody but Mr. *Stewart* seemed to think he had now any Duty to do, the Town always ungarrisoned, always unfortified, now in an universal Consternation, perhaps divided within itself, was entered without Resistance by the Rebels.

I should think it an Affront on your Understanding to shew you more particularly how unavoidable this Event is to be esteemed; and therefore having put this main Point in
a just

a just Light, I shall touch, tho' briefly, on the other Articles of Accusation. They are, I own, like the Provost's Forces, pretty numerous; but surely the most disorderly, undisciplined Rabble that ever were led into the Field. They are rather the Subject of Ridicule than of any serious Opposition. For Instance.

The Lord Justice Clerk, several of the Judges, along with the King's Council, gave it unanimously as their Opinion, that the levying of a Regiment, without his Majesty's Warrant, was illegal: His Majesty, when applied to, confirmed that Doubt by granting that Warrant: And the plain Words of the Statute requires such an Authority; yet the raising a Doubt upon this Head is deemed a Crime; tho' that Doubt, or any other Doubt, were it ever so ill grounded, must be allowed intirely innocent*.

The Provost also is said to have raised a Doubt about the Legality of inlisting the Volunteers. And indeed, this Case is so much alike, or so much the same with the other, of raising a Regiment, that no wonder such a Scruple did arise. But he took Care, immediately, to consult the Lord Advocate; and he also took Care, immediately, to acquiesce in his Lordship's Judgment. Yet this is one Article of Charge against him†.

The Town-Council intrusted the Inspection and Care of the Work to a Committee under another Person: The Works projected were all finished before the Arrival of the Rebels. Are you not surprized he must answer for them, as if they were unfinished; or, as

D

if

* Article the 1st.

† Article the 2d.

if they had chiefly been put under his Direction *.

Some Zealots had proposed to set up Marks of Distinction, from mere Suspicion on several Citizens, who behaved themselves peaceably. The Provost rejected so imprudent, so pernicious a Measure. Is he therefore criminal § ? He offered Pay and Victuals to some Volunteers, that came from the Country ; need I repeat the Question, if this Proposal renders him criminal || ?

A Gentleman, Mr. *Alves*, travelling on the Road towards *Edinburgh*, passes the Rebels ; and the Duke of *Pertb* gives him a threatening Message to deliver to the Provost : The Provost does not immediately commit him ; both because it did not appear, that he was any way guilty, in relating to the Chief Magistrate, a Story in which he had been involuntarily engaged ; and because there was Danger of spreading the Story the faster, and intimidating the Inhabitants, by such a Commitment. Hearing a few Hours afterwards, that the Gentleman had been so imprudent as to tell his Message to others, he immediately committed him. You are not surprized, I suppose, after what you have read above, to find, that this is an Article of Accusation †.

He is also charged with receiving a Petition from the Inhabitants, keeping a Meeting with them, and hearing a Letter read from the Pretender's Son. The receiving the Petition was innocent, and also unavoidable, unless he had shut himself up in his Closet. The calling a Meeting of the Inhabitants at such a Juncture, would also have

* Article the 3d. § Article the 4th. || Article the 5th. † Article the 6th.

have been innocent. But he called no such Meeting. The Inhabitants, under Terror of the approaching Danger, pressed in upon him wherever he went, and would have their Complaints and Remonstrances heard; and the Provost, so far from consenting to read the Letter, openly and strongly opposed it, and left the Company to avoid hearing it *. All these Facts are public and notorious.

On the 15th of *September*, the Provost was called in the Evening to Lord Justice Clerk's, where Lord Advocate, General *Guest*, Brigadier *F——*, and several other Officers, were present. A Proposal was there made, that the Dragoons should be brought into Town, with a View to give them some Rest and Refreshment, and have their Horses fed in the Streets. But upon Reflection it appeared, that the Avenues of the Town might be taken possession of by the Rebels, and the Streets barricadoed, the Houses lined, and the Dragoons by that means fall into the Hands of the Enemy. This Proposal, therefore, was most justly rejected. Next Day, after the near Approach of the Rebels, after the Flight of the Dragoons, after the universal Consternation of all Ranks, Mr. *Stewart* refused to sign any Order to these Dragoons, over whom he had no Authority, to return and enter into the Town; tho' he promised them all Kind of good Reception and Entertainment, if they thought proper to come. When I find the Refusal to sign such an Order, stated as an Article of Accusation against the Provost, I cannot think but the Accuser, foreseeing the Circum-

* Article the 7th.

Circumstances of Merit, which the Accused would plead, laid immediate Claim to them as his own Right ; like a prudent General, who takes Possession of those Eminences or strong Grounds, that may be of Service to the Enemy. This Observation is, indeed, applicable to almost all the Articles ; there is scarce any of them but might be cited as a Proof of Mr. Stewart's Vigilance, Prudence, Activity, or Moderation.

If the Volunteers, in the Hurry of so active a Day, as the 16th of *September*, waited some time for Orders, without receiving any ; this is also made an Article of Charge *.

The 10th Article is of the same Force with all the rest ; tho' I shall not tire either you or myself, by narrating or refuting it. I shall only add a few Words, with regard to the *Eleventh* Article, which charges him with allowing the City Arms to fall into the Hands of the Rebels ; because some People think there is a Foundation for this Charge, tho' they frankly allow all the rest to be frivolous, and even ridiculous,

First, Without mentioning the Insignificancy of these Arms, Mr. Stewart pleads, with regard to this Article, and with regard to all Articles, that have been, or may ever be charged against him, that, tho' Chief Magistrate, and President of the Town-Council, he was really but one Member, and had but one Vote. The supreme Command was in the Council. They were criminal, if there be any Crime. It is not, nor can it be pretended, that he, in this or any other Instance, opposed, or over-ruled, or contradicted their Determination.

Secondly,

* Article the 9th.

Secondly, There had several Messages come from the Rebels, threatening Destruction, if the City either resisted or secreted their Arms. It is a Question whether the Magistrates, for the saving of a few rusty Arms, ought in Prudence to have run the Risque of having these Threats executed, considering the known Barbarity of the Clans, and the then unknown Moderation of their Chieftains. But it is no Question, however the Magistrates had determined, that the People would not have consented; and consequently, that the secreting these Arms was absolutely impracticable.

Thirdly, Mr. Stewart showed all along a particular Attention to keep Arms out of the Hands of the Rebels. When it was proposed, after the News arrived of Sir J—C—'s being seen off *Dunbar*, to desire back again from the Castle, the Arms which the Volunteers and the *Edinburgh* Regiment had carried thither; the Provost, apprehensive of the Consequences, rejected the Proposal; till he should see, as he said, a better Disposition in the Inhabitants, to make use of Arms. And he even sent a Message to General *Guest* in the Castle, informing him of the Consternation of the Town, and the little Authority which the Magistrates had, to force the Trained-Bands to deliver up their Arms; and desiring, at the same time, the General to send down a Party to carry up the Arms, or use some other Expedient to that Purpose.

Fourthly, It is proper to consider, in this Case, the Uncertainty of the Situation to which the Magistrates and Council were reduced, during the last and most distressing Scene of this unlucky

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Affair:

ndly,

Affair : Sometimes terrified with the immediate Approach of the Rebels ; at other times, encouraged with some Prospect of Relief ; even towards the End of this Period there were some Hopes of the Return of the Dragoons. Nor was that Expectation quite over in the Meeting of the Council ; until they heard the Rebels had entered the Town. Had the Dragoons returned to the City, and animated the People in its Defence, the Charge against the Provost then, would have been inverted : Why did he send up the Arms to the Castle ? Why did he carry them out of the way, when they might be instantly wanted for the Defence of the Town, and the near Approach of the Rebels made a Moment's Delay of great Consequence ? And the Citation might have been adduced, which has been misapplied in the present Case, *Quod puncto sæpe temporis maximarum rerum occasiones amittuntur*, That Success in the greatest Affairs, frequently depends on a Moment.

But, *Fifthly*, what if Mr. Stewart should say (which indeed he has here no manner of Occasion for) that he was in the wrong, and that in the general Hurry and Consternation, it was difficult not to forget something. Would any Man lay this as a criminal Accusation against him.. I grant, in War, it is never allowed a General to say, *Non cogitavi*, I did not think of it. *Marlborough* or *Eugene* might be ashamed of such an Excuse : But the Provost was bred to a different Profession. And I dare affirm, that even these great Generals, had they been ingenuous, might, twenty times in their Lives, have made use of this Apology.

The *Twelfth*, and last Article is, if possible, still more

more extraordinary than all the rest. It makes the Provost the *Scape Goat*, and charges him with the Sins of the whole People; because the People want Charity, and judge him criminal, therefore he must really be so. You may read, indeed, in your *Machiavel*, that, by a very peculiar and very absurd Law in the Republick of *Florence*, where ever the popular Opinion condemned a Man, it was lawful for a certain Magistrate, called the *Gonfalioneré*, immediately to put him to death, without any Trial or Form of Process. I have no Intention to deny, that Mr. *Stewart* would have fared very ill, had he been in *Florence* two Years ago; and had the present Provost been *Gonfalioneré*. Tho' now I believe he would have no Reluctance to submit himself to a popular Tribunal.

*The People's Voice is odd,
It is, and it is not the Voice of God.*

But tho' popular Clamours are not here, as in *Florence*, authorized by Law, it is plain, that, in Practice, at least in Mr. *Stewart's* Case, they draw very terrible Consequences after them. He was sensible of the Disadvantage he lay under; yet this would not discourage him from attending his Duty in Parliament. He put himself into the Hands of his Enemies; for such the Ministry had become; nor need we be in the least surprized at it. He suffered a severe Confinement for some time; and tho' this was by Degrees remitted, yet still it continued a Confinement for fourteen Months, very grievous to any Man, and very prejudicial to a Man of Business.

I have been certainly informed, that, very often

when the Ministry, in prosecution of their usual Lenity, was resolved to give Mr. *Stewart* his Liberty, their Hands were continually stopped by a fresh Cargo of Lies and Calumnies imported to them from *Scotland*; and which it required some time to examine and discuss.

But when, at last, he got his Liberty, and had the Prospect of a fair Trial, this happy Time, which should put a Period to all his Sufferings, was continually protracted, in the most unaccountable Manner in the World. At the first Diet in *March*, he was put off till *June*, and afterwards till *August*. When every Thing was then ready for a Trial, the Prosecutor deserted the Diet, and Mr. *Stewart*, as well as the Public, imagined, that all was over, and that his Enemies, conscious of his Innocence, were to free him from all farther Prosecution. But he is again, it seems, to be brought on his Trial with additional Expence, and Vexation and Trouble. How long this may yet last is uncertain; and 'tis evident any Man might be ruined by the Continuation and Repetition of such a Practice: For which, it seems, our Law provides no Remedy.

All these vexatious Measures gave the more Indignation, when we consider again it whom, and by whom, they are exercised. You are perfectly well acquainted with Mr. *Stewart*, and know him to be a good Magistrate, a good Friend, a good Companion, a fair Dealer: A Man in every Action of his Life, full of Humanity, Justice and Moderation.

The Government too, is surely the fullest of Mildness, Equity and Justice in the World. The present Instance is, I believe, the only one, in near sixty Years, of an innocent Man, that

that has ever lain under the least Oppression. If our Government is faulty in any Thing, 'tis rather in the opposite Extreme ; and the present Times show sufficient Examples of it.

The Town of Edinburgh was lost ; a most unexpected, and most unaccountable Event surely ! But what was it when the Battle of *Falkirk* was lost ; when a numerous, a veteran and a brave Army fled before a Handful of Highlanders, whom they had scarce seen ? I never heard that the Author of that Calamity has been punished, or even questioned, or has met with the smallest Discouragement ; I mean, from the higher Powers. For I was very well diverted, t'other Day, by the Account of a Sarcastm, he met with from a private Hand, which was the severest in the World.

When the Army fled to *Linkithgow*, they immediately quartered themselves about in all the Houses, and even in the Palace, where there dwelt, at that Time, a Lady noted for Wit and Beauty ; who observing their disorderly Proceedings, was apprehensive they would fire the Palace. She immediately went to remonstrate to a certain great General, and was received *pro solita sua humanitate*, with his usual Humanity. Finding her Remonstrances vain, she took her Leave in these Words, *To take care, says she, of the King's House, is your Concern : For my Part, I can run from Fire as fast as any of you.*

So spoke the Cherub, and her grave Rebuke,
Severe in youthful Beauty, added Grace
Invincible. Abash'd the Devil stood, &c. &c.

It would be cruel to mention the unfortunate K——t ; and, I believe, since we live in an acquitting

quitting Age, every Body is glad he was acquitted. I have heard, that all the Winter after the Battle of *Preston*, he was carried about *London* in his Chair, with the Curtains drawn, to escape the Derision of the Mob; till the News of the Battle of *Falkirk* arrived, and then he pulled back the Curtains, and showed his Face and his r—R—to all the World. Thus the Reputation which the Hero of the *Colt-Bridge* was the chief Cause of depriving him of, the Hero of *Falkirk*, in a great Measure restored to him.

Sæpe, premente Deo, fert Deus alter opem.

I need not insist on the Mayor of *Carlisle*, Mr. *Pattison* (not *Paterfon*.) who defended so gloriously a fortified Town against the Rebels.

I shall only say, If all these Enormities pass unpunished, and Mr. *Stewart* alone the Victim, there are some People, to make Use of the Allusion of a witty Author, that resemble very much the Monster in *Rabelais*, that could swallow a Wind-mill every Morning to Breakfast, and was at last choaked with a Pound of Fresh-Butter hot from an Oven.

I cm. &c.

P.O.S.T.

POSTSCRIPT.

I Intended to have sent this by _____ but not being able to meet him before he left this Country, I was obliged to keep it by me till this time, when I hear, to my great Satisfaction, that Mr. Stewart has been acquitted by the Jury *Nemine contradicente*, and that all the Facts contained in his Information, and in the foregoing Letter, were proved with an Evidence and Conviction, even beyond what he himself imagined. The Trial was the longest and most solemn that ever was known in this Country; and the Judges were even obliged, by Necessity, to break through an established Custom and Law, and adjourned the Court, on Account of the absolute Impossibility of supporting, without Interruption, the Fatigues of so long a Trial. Mr. Stewart intended to have abridged their Trouble, by resting his Defence intirely on the Pursuer's Evidence, without adducing a single Witness of his own: But he was over-ruled in this by his Council, who approved of the Confidence arising from Innocence, but still insisted upon having two Witnesses adduced, for all the principle Facts, upon which he grounded his Defence.

Several of the Jury had been Volunteers during the Rebellion, and all of them were particularly distinguished by their warm Zeal for the Government. As some People had been foolish enough to make this Trial a Party Business, all
Mr.

Mr. *Stewart's* Friends were alarmed, when they saw the Names of the Jury. For tho' they were sensible of the Probity of these Gentlemen, yet they dreaded their Prejudices, and were afraid, that Truth and Innocence would not obtain so full a Triumph (as they did afterwards) over Passion and Party-Zeal.

I can assure you the King's Advocate did not want Keeness in this Affair, to give the mildest Appellation to his Conduct. And here I must inform you, that what I heard of his Speech suggested to me a Remark, which I had often made, to the Honour of our Age and Nation, in one Particular, above the antient Times of *Greece* and *Rome*. Mr. *Grant* was very copious in insisting on the Suspicions this Country lay under with Regard to *Jacobitism*, the apparent Diffidence the Ministry had shewn to trust us with the Trials of the Rebels, the strong Conviction every one in *England* had of Mr. *Stewart's* Guilt, and the great Scandal his Acquital would bring on the Country; to which he added, that a very slight Punishment was intended, a few Days Imprisonment, and a small Fine, which one so rich as Mr. *Stewart* could easily bear. But though you know that such extraneous and popular Topics as these, are very usual in all the Poems and Epilogues of *Cicero*, and even of *Demosthenes*; yet I can assure you this Imitation of the antient Orators was not at all approved of, either by the Jury or the By-standers.

You will be very much surprized, I suppose, to hear, that many of the *Whigs* have betrayed such a furious Zeal on this Occasion, that they are mortified, or rather indeed enraged to the last Degree, that an innocent Man has been found
innocent.

innocent: And this has given Occasion to the opposite Party, to make his Acquittal a Matter of infinite Triumph and Rejoicing; as much almost as the Defeat of *Val*, or the Surprizal of *Bergen-op-zoom*, or any other publick Calamity, that has ever befallen us. Whatever opposes or disappoints the Government will always be, without Distinction, a great Satisfaction to them.

But I shall further explain to you the great Difference betwixt a political and a religious *Whig*, in Order to account for these odd Transactions. The Idea I form of a political *Whig* is, that of a Man of Sense and Moderation, a Lover of Laws and Liberty, whose chief Regard to particular Princes and Families, is founded on Regard to the publick Good: The Leaders of this Party amongst us, are Men of great Worth, the President, for instance, and Lord Justice Clerk, especially the Former. I say, especially the Former: for tho' 'tis certain the Conduct of the Justice Clerk was altogether commendable, as far as the Circumstances and Situations, in which he was placed, would admit; yet that of the President has been so singularly good and great, as to be the Subject of Admiration, and even of Envy, if Virtue could ever excite that Passion.

The religious *Whigs* are a very different Set of Mortals, and in my Opinion, are much worse than the religious *Tories*; as the political *Tories* are inferior to the political *Whigs*. I know not how it happens, but it seems to me, that a Zeal for Bishops, and for the Book of Common-Prayer, tho' equally groundless, has never been able, when mixt up with Party Notions, to form so virulent and exalted a Poison in human Breasts, as the opposite Principles. Diffimulation, Hypocrisy, Violence,

Violence, Calumny, Selfishness are, generally speaking, the true and legitimate Offspring of the Kind of Zeal.

This Species of *Whigs*, whatever they may imagine, form but the Fag-end of the Party and are, at the Bottom, very heartily despised by their own Leaders. Once on a Time, indeed the Breech got over the Head ; when *Cromwell Ireton, Warriston, &c.* ruled our Councils and Armies ; and then there was fine Work indeed. But ever since, though their Assistance has been taken at Elections, and they have been allowed in Return, to rail and make a Noise as much as they please, they have had but little Influence on our publick Determinations ; and long may continue so.

These are Mr. Stewart's greatest, and indeed only Enemies. The political *Whigs* are, many of them, his personal Friends ; and all of them are extremely pleased with his Acquittal, because they believe, what is, indeed, undeniable, that it was founded on his Innocence. I am charitable enough to suppose, that the Joy of many of the *Tories* flowed from the same Motive. And as to those, if there were any such, who had a different Motive, he will not, I believe, give them any Thanks for a Concern, which is more likely to hurt than to serve him.



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